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October 30, 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND DELIVERY

Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, Room 222
Washington, D.C. 20554

Re: In the Matter of Request of the USTA for Waiver of the Commission's Requirements in CC Docket No. 96-128 (Payphone Compensation) and Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128

Dear Mr. Caton:

Please find enclosed for filing an original and four copies of the Comments of the RBOC/GTE/SNET Payphone Coalition on Petitions to Waive Payphone Coding Digit Requirements in the above captioned proceeding.

Please date-stamp and return the extra copy provided to the person delivering this package.

Sincerely,

Michael K. Kellogg

Michael K. Kellogg

Enclosures

No. of Copies rec'd 0+4
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of

Request of the United States Telephone Association for Waiver of the Commission's Requirements in CC Docket No. 96-128 (Payphone Compensation)	)	CC Docket No. 96-128
Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996	)	

COMMENTS OF THE RBOC/GTE/SNET PAYPHONE COALITION ON PETITIONS TO WAIVE PAYPHONE CODING DIGIT REQUIREMENTS

The RBOC/GTE/SNET Payphone Coalition[1] files these comments in support of the petitions to waive payphone-specific coding digit requirements filed by the United States Telephone Association ("USTA"), the LEC ANI Coalition, and TDS Communications Corporation. Each of these petitions requests that the Commission grant a limited waiver of its requirements that payphones transmit payphone-specific coding digits as a precondition to receiving per-call compensation. The Coalition believes such a waiver is both necessary and appropriate.

1. The Coalition consists of Ameritech, the Bell Atlantic telephone companies, BellSouth Corporation, GTE Service Corporation and the GTE telephone companies, Pacific Bell, Nevada Bell, Southern New England Telephone, Inc., Southwestern Bell Telephone Company, and U S WEST, Inc.

Individual members of the Coalition are likely to file individual comments in this proceeding, apprizing the Commission of their particular circumstances and concerns on the issue of payphone-specific coding digits. The Coalition files these joint comments only to make a few short points.

1. The Common Carrier Bureau already has recognized that a limited waiver of the payphone-specific digit requirements is in the public interest. Order, Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket 96-128, DA 97-2162 (rel. Oct. 7, 1997) ("Waiver Order"). The Bureau concluded (and the Coalition agrees) that such a limited waiver is necessary to upgrade switches serving the minority of phones that currently do not pass such digits.

As the Bureau has noted, the industry is working towards an industry-wide resolution of this matter, and it would be inequitable to deny PSPs per-call compensation while these implementation issues are being resolved. Waiver Order ¶¶ 10-11. Nor will any harm result: The waiver will only affect a minority of payphones and, as the Bureau has stated, "will not preclude IXCs from identifying payphone calls for the purposes of determining the number of calls for which compensation is owed." Id. ¶ 12. The Bureau recognized that a waiver might require the carriers to pay per-call compensation on calls they would be unable to block, but explicitly concluded that any such harm to the IXCs would be less than the potential harm to PSPs of delaying per-call compensation. Id. ¶ 13. The Coalition concurs in all these points.

2. AT&T has opposed the Waiver Order, contending that it "cannot practically implement a per-call compensation mechanism based on 'matching' LEC ANI lists and call records bearing a '07' code until late 1998, and at a cost of $16 million." Letter from E.E. Estey, Government Affairs Vice President, AT&T, to John B. Muleta, Acting Deputy Chief, Common Carrier Bureau, FCC at 2 (Oct. 14, 1997) ("AT&T Oct. 14 Ex Parte"). The Coalition is skeptical of AT&T's claims. To the Coalition's knowledge, other interexchange carriers -- including relatively small ones like Telco Communications Group, Inc. and American Network Exchange, Inc. -- will have no trouble paying per-call compensation based on LEC ANI lists. Indeed, AT&T itself does not claim otherwise, citing Frontier as the only other IXC that "faces similar problems to AT&T's." Id. at 3 n.4.

The Coalition would like to remind the Commission that in May of this year, when it was seeking to receive hard coded ANI ii digits, AT&T insisted that it would take at least a year and cost well over $10 million for AT&T to be able to accept Flex ANI codes. Letter from E. Estey, Government Affairs Vice-President, AT&T, to Regina Keeney, Chief, Common Carrier Bureau at 3 (May

23, 1997). Yet, three months later, AT&T miraculously announced that it had solved the problem and was ready to receive (indeed, insistent upon receiving) FLEX ANI after all. Response of AT&T and MCI to LEC ANI Coalition Ex Parte, at 4 n.4 (August 13, 1997) ("AT&T has been able to overcome the previously identified technical problems associated with the receipt of Flex ANI codes."). If the Commission stands firm, the Coalition fully expects that AT&T will also "overcome the previously identified technical problems" associated with paying per-call compensation using LEC ANI lists.

The Coalition would also like to remind the Commission that AT&T and other IXCs have engaged in outright defiance of the Commission's payphone compensation orders. They have repeatedly refused to pay amounts that are owed to payphone service providers ("PSPs"), particularly those affiliated with LECs. AT&T's current claim that it "cannot" do what virtually every other IXC can do appears to be simply the latest installment in AT&T's long-running attempt to stave off paying per-call compensation.

3. AT&T has proposed, in the alternative, that it be granted a waiver to permit it to calculate its payment obligations "by using the per-phone compensation method for payphones that are unable to deliver the proper identifying digits." AT&T Oct. 14 Ex Parte at 3. If the Commission is inclined to grant AT&T (and Frontier) such a waiver, the Coalition wishes to make the following points:

First, any relief should be expressly conditioned on prompt payment of all interim compensation. That means that the Commission should not grant AT&T's waiver without first, or simultaneously, resolving the issue of interim compensation. There is a considerable amount of money involved and before AT&T gets a waiver of obligations starting on October 7, 1997, it should be required to pay (with interest) all amounts accrued before that time. Moreover, the waiver should be conditioned on prompt payment, on a monthly basis, of amounts owed pursuant to the waiver. Advancing one excuse after another, AT&T has consistently evaded its compensation obligations to date. The Commission should put an end to this subversive conduct and specify that where compensation is due, it must be paid. It is an absolute, not a contingent obligation.

Second, the waiver should only apply to AT&T and Frontier and any other IXC that specifically demonstrates that it cannot track and pay per-call compensation using LEC ANI lists. The Coalition understands that most IXCs do not need payphone-specific digits to track and pay per-call compensation. Indeed, the Coalition understands that many IXCs do not even want payphone-specific digits because their systems are not equipped to handle them.[2]

Third, sixty percent of payphones in areas served by the Coalition already transmit payphone-specific coding digits (specifically, a "27" code). Letter from Michael K. Kellogg, Kellogg, Huber, Hansen, Todd & Evans, to John B. Muleta, Acting Deputy Chief, FCC, at 2 (Sept. 30, 1997) ("Coalition Ex Parte"). Obviously, even the IXCs who do receive a waiver should pay compensation on a per-call basis on those phones starting October 7, 1997. The Coalition does not understand AT&T to be suggesting otherwise. See AT&T Oct. 14 Ex Parte at 3 (asking for a waiver only "for payphones that are unable to deliver the proper identifying digits").

Fourth, a number of Coalition members are moving as quickly as possible to deploy FLEX ANI. These include Ameritech, Bell Atlantic, BellSouth, Pacific Bell, Nevada Bell, and Southwestern Bell Telephone Company. As upgrades are made to allow so-called

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2. The Coalition, of course, assumes that LECs are obligated to provide payphone-specific digits only to those carriers who request such digits. If a carrier desires to pay per-call compensation without receiving such digits, the Coalition members do not expect to be required to provide them. Indeed, if FLEX ANI were ubiquitously deployed without regard to the ability and desire of IXCs to receive those coding digits, many calls would simply be dropped. Likewise, after the limited waiver period, the Coalition does not anticipate being required to provide payphone-specific digits to carriers who would prefer to pay per-call compensation without such digits. This includes, for example, carriers who elect to use Feature Group B, which is simply incompatible with the transmission of any coding digits for "950" calls where the customer is connected at the tandem.

smart phones (which currently transmit "07") to transmit payphone-specific digits, those phones too should receive compensation on a per-call basis. Again, we do not understand AT&T to be suggesting otherwise.

Fifth, even for payphones that (for the time being) transmit "07," at least some of the compensation for those phones should be on a per-call basis. If we understand AT&T correctly, AT&T is capable of tracking all calls except subscriber 800 calls originated on these smart payphones. AT&T Corp. Opposition to USTA and TDS Petitions for Waiver at 6, CC Docket 96-128 (filed Oct. 7, 1997). If that is the case, the Commission should require AT&T and any other IXCs that obtain a waiver to pay per-call compensation on a monthly basis for all calls -- including inmate, 0+, and 0- calls that are not otherwise compensated by contract -- other than subscriber 800 calls. If AT&T clarifies that it cannot even track subscriber 800 calls, then at least inmate, 0+ and 0- calls that are not otherwise compensated by contract should be paid for on a per-call basis.

Finally, in calculating flat-rate compensation for 800 subscriber calls from smart phones (until these phones are able to transmit payphone-specific digits), the Commission should choose a realistic call volume. Smart phones are generally placed in high-volume locations and, thus, carry many more calls than so-called dumb phones. Since here only smart phones are in question, it would be inequitable to calculate the compensation amount based on an amalgam of smart and dumb phones.[3]

According to data developed by BellSouth Public Communications, Inc. (which has predominantly smart phones), the average number of subscriber 800/888 calls originated on smart payphones is 151 calls per phone per month.[4] We understand that the APCC has data showing similar volumes of subscriber 800/888 calls on their payphones. The appropriate monthly per-phone charge to cover subscriber 800/888 calls -- determined by multiplying this figure by the default per-call compensation amount ($0.284) -- is thus $42.88; if dial-around calls are included (i.e., if AT&T can't track those either), then the total should increase accordingly. In addition to that amount, AT&T would have to pay regular per-call compensation on each smart phone for all other compensable calls carried on that phone.

4. In addition to the waiver request, AT&T has asked the Commission to require each LEC to provide "a schedule stating

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3. For that reason, the figure of 131 calls used by the Commission in its initial Report and Order in this docket is inapplicable here. That number was based on an amalgam of smart and dumb phones. Report and Order, 11 FCC Rcd 20541, 20604, ¶ 125 (rel. Sept. 20, 1996). Here, only smart phones are in question, because dumb payphones already transmit payphone-specific digits.

4. This figure was determined by multiplying the average number of 800/888 subscriber calls originated per month per smart phone (182.5) by the completion rate (82.6%). For purposes of this calculation, a call lasting longer than 25 seconds was treated as a completed call. See Affidavit of W. David Conley, ¶¶ 2-4 (attached as Ex. A.).

which offices are currently able to deliver payphone digits and when it will deliver specific payphone identification digits from its other equal access end offices." AT&T Oct. 14 Ex Parte at 3. The Coalition has no objection to reporting on offices that are currently able to provide FLEX ANI. But it would be infeasible and inefficient for the LECs to provide a schedule stating when they will provide FLEX ANI from individual end offices. The deployment of the switch software and the necessary switch translations work will severely tax the LECs' already overburdened resources. Moreover, the LECs must work closely with (and receive specific orders from) IXCs in converting specific offices; LEC scheduling in a vacuum is useless without demand estimates from, and testing with, IXCs. As a consequence, the LECs should be given the freedom to deploy the necessary technology in the most efficient manner possible. Rather than a monthly deployment schedule in advance, the Coalition proposes that each LEC provide a monthly list of the offices currently capable of providing FLEX ANI. This should provide AT&T and the other IXCs with the information they need while providing the LECs with sufficient freedom to ensure the necessary technology gets deployed as quickly and efficiently as possible.

In addition, the Commission should ensure that carriers will use the screening digits only for purposes of providing per-call compensation (including tracking and blocking) by requiring the carriers to certify to that effect. Carriers should not be able to use FLEX ANI, free of charge, for fraud screening purposes. Such a result would be inconsistent with the Commission's decision in the OLS proceeding. See Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, 11 FCC Rcd 17021 (1996).

Conclusion

The Commission should reaffirm its waiver of the payphone-specific digit requirements. To the extent that the Commission grants AT&T a waiver of the requirement that it pay per-call compensation, it should only do so subject to the conditions noted above.

Respectfully submitted,

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October 30, 1997

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of

Request of the	)	
United States Telephone Association	)	
for Waiver of the Commission's	)	
Requirements in CC Docket	)	
No. 96-128 (Payphone Compensation)	)	CC Docket No. 96-128
	)	
Implementation of the Pay Telephone	)	
Reclassification and Compensation	)	
Provisions of the	)	
Telecommunications Act of 1996	)	

AFFIDAVIT OF W. DAVID CONLEY

1. My name is W. David Conley and I am Head of Strategic Development at BellSouth Public Communications ("BSPC"). At the request of counsel for BellSouth, I have prepared this affidavit discussing the number of 800/888 subscriber calls originated on BellSouth Public Communications "smart" phones per month.

2. Using data maintained by BSPC, I measured the average number of calls placed to 800/888 numbers from BSPC "smart" phones (i.e. phones that are attached to a "dumb" line and send a "07" screening code). Based on data collected during the period 9/20/97 to 10/22/97, the average number of 800/888 calls originating on BSPC "smart" phones per month was 234.

3. Using current modeling assumptions and data gathered during the summer of 1995, I then derived the number of 800/888 subscriber calls as a fraction of all 800/888 calls from "smart" payphones. I determined that 78% of all 800/888 calls from "smart" phones were placed to subscriber 800 numbers, while 22% of all 800/888 calls from such phones were access code calls (e.g. 1-800-CALLATT).

4. I then calculated how many of these subscriber 800/888 calls were actually completed. I based my calculations on a model under which calls lasting longer than 25 seconds were considered to be completed calls. Using this methodology, I determined that on average, 82.6 percent of all 800/888 subscriber calls were completed per month. Accordingly, 151 subscriber 800/888 calls were completed per phone per month.

Further deponent saith not.

W. D. Conley

W. DAVID CONLEY

Sworn to and subscribed before me
on this 30th day of October, 1997.

Sharon T. Greer

Notary Public

NOTARY PUBLIC STATE OF ALABAMA AT LARGE.
MY COMMISSION EXPIRES: Feb. 14, 2001.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of October, 1997, I caused copies of the foregoing Comments of the RBOC/GTE/SNET Payphone Coalition on Petitions to Waive Payphone Coding Digit Requirements to be served upon the parties listed below by first-class mail.

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